

## Americans Want In-Person Bar Exams, Poll Finds

*The National Conference of Bar Examiners is pushing back against the diploma privilege movement with the release of a poll that found that 60% of Americans support in-person bar exams during the COVID-19 pandemic, and 70% think the in-person exams should be retained after the pandemic.*

*By Karen Sloan | septembre 30, 2020 Law .com*

The bar exam is under an unprecedented amount of pressure amid the COVID-19 pandemic, with four states now offering pathways to practice that bypass the test and mounting calls for the elimination or radical reinvention of the attorney licensing exam.

But a new poll commissioned by the National Conference of Bar Examiners—which designs the test—finds that the vast majority of Americans support the requirement that new lawyers pass the bar before they can practice law.

Of the 1,135 adults surveyed in September, 60% said that the bar exam should be given in-person during the pandemic, with masks, social distancing, and other health and safety measures in place. Another 19% of respondents said that the exam should be offered in an online or remote format. Just 6% of respondents said the exam should be eliminated as a requirement to practice during the coronavirus crisis, while the remaining 15% had no opinion on the matter. Of the respondents, 89% had no professional connection with law.

“The bar exam, like other high-stakes professional licensure exams, is critical to the protection of the public interest and to ensuring that new lawyers have demonstrated possession of the basic knowledge and skills required to obtain a general license to practice law,” said NCBE Board of Trustees Chair Hulett “Bucky” Askew, in a prepared statement.

The results of the poll were released just five days before more than 30,000 law graduates are slated to take the first multi-jurisdiction online bar exam in history. Critics have said the online exam is inequitable and favors takers with reliable internet and quiet places to sit for the exam. Moreover, they say the technology being used to deliver the exam is riddled with glitches that disrupt the exam and enable cheating, and that the remote monitoring system is discriminatory to non-white test takers and those with disabilities.

Law graduates since March have called for emergency diploma privilege programs that would enable them to be licensed without passing the bar exam, on the grounds that gathering hundreds or thousands of test takers together in person is too risky during the pandemic. Utah, Washington, Oregon and Washington, D.C., have introduced diploma privilege programs since April, though the structure of those programs vary widely. COVID-19’s disruption of the traditional bar exam has also given rise to more discussions about the long-term future of the exam and whether it accurately gauges the skills new lawyers need. Some leaders among diploma privilege advocates have said they intend to keep pushing for the elimination of the exam beyond the Oct. 5 and 6 online test.

The NCBE’s poll looks to be an attempt to defend the exam by highlighting public opinion that it serves a key function in ensuring the competence of new lawyers. When asked about the bar exam after the pandemic has subsided, 70% of respondents favored a return to in-person bar exams. Another 14% said the bar exam should be give remotely after the pandemic, and 5% said it should be eliminated as a requirement for law graduates.

“Lawyers are entrusted to protect the legal interests of the American people and are called upon for everything from the mundane to the extraordinary, from fender benders to murders,” said Judge Zel Fischer of the Missouri Supreme Court in the announcement the poll’s results. “Could you imagine a campaign to allow doctors or commercial pilots or engineers to skip their licensing exams and begin operating or flying or building bridges? It’s not a good idea for those professions, and it’s certainly not a good idea for recent law school graduates.”